

APPENDIX F

Bureau Rate Survey

Residential Rate Review

Please update these data for October 15, 2002

I. Access Rates	Generally Available Service		Subsidized Services Such as Lifeline	
	(#1) Unlimited or Flat-Rate Service	(#2) Measured or Message Service	(#3) Unlimited or Flat-Rate Service	(#4) Measured or Message Service
Monthly Charges per Line				
a. Recurring service charge				
b. Federal subscriber line charge				
c. State subscriber line charge				
d. Touch-Tone monthly charge				
e. Lowest monthly inside wiring				
f. Optional extended area plan				
Charges for calls in the local service area				
g. The number of voice calls or message units included in the monthly recurring rate if message service				
h. The dollar calling allowance for voice calls included in the monthly recurring rate if measured service				
i. The charge for a 5-minute, business day, same-zone voice call				

II. Other Mandatory Monthly Charges Associated with Local Access

- a1. Mandatory percentage surcharge for USF passthrough
- a2. Other mandatory percent surcharges accounted as company revenue
- b1. Mandatory fixed amount surcharge for USF passthrough
- b2. Other mandatory fixed amount surcharges accounted as company revenue
- c. Percentage tax or surcharge for funding 911 service
- d. Fixed amount tax or surcharge for funding 911 service
- e. Federal excise tax rate
- f. Other percentage taxes (sales, excise, gross receipts, etc.) levied on monthly service by state county or local government
- g. Other fixed amount government taxes or surcharges

III. Service Connection Charges

- a. Total connection charge for rotary service if no premises visit is required
- b. Additional charge if company is connecting Touch-Tone service
- c. Minimum additional charge if drop line and terminal block are needed to connect service. Do not include any inside wiring charges.

Normal Service

Subsidized Service
(e.g., Link-Up)

IV. Other Mandatory Charges for Connection

- a. Mandatory percentage surcharges on connection accounted as company revenue
- b. State, county, and local taxes and surcharges on connection (total of % rates)
- c. Other mandatory connection charges

Notes

Form Completed by: _____ Contact Telephone Number: _____

APPENDIX G

Proposed Methods of Targeting Additional Federal Support

Proposed Levels of Additional Targeted Federal Support*

STATE	25%	20%	15%	10%	5%
AK	86,247	68,998	51,748	34,499	17,249
AL	14,089,895	11,271,916	8,453,937	5,635,958	2,817,979
AR	5,393,077	4,314,461	3,235,846	2,157,231	1,078,615
AZ	3,544,761	2,835,809	2,126,856	1,417,904	708,952
CA	15,571,160	12,456,928	9,342,696	6,228,464	3,114,232
CO	4,333,636	3,466,909	2,600,182	1,733,455	866,727
CT	13,622	10,898	8,173	5,449	2,724
DC	-	-	-	-	-
DE	122,737	98,190	73,642	49,095	24,547
FL	1,820,616	1,456,493	1,092,370	728,247	364,123
GA	4,447,137	3,557,710	2,668,282	1,778,855	889,427
HI	744,219	595,375	446,531	297,687	148,844
IA	2,203,372	1,762,698	1,322,023	881,349	440,674
ID	3,013,154	2,410,523	1,807,893	1,205,262	602,631
IL	13,962,653	11,170,122	8,377,592	5,585,061	2,792,531
IN	8,680,321	6,944,257	5,208,192	3,472,128	1,736,064
KS	4,868,330	3,894,664	2,920,998	1,947,332	973,666
KY	12,680,555	10,144,444	7,608,333	5,072,222	2,536,111
LA	9,945,778	7,956,623	5,967,467	3,978,311	1,989,156
MA	437,020	349,616	262,212	174,808	87,404
MD	834,342	667,474	500,605	333,737	166,868
ME	3,732,778	2,986,223	2,239,667	1,493,111	746,556
MI	11,236,163	8,988,930	6,741,698	4,494,465	2,247,233
MN	3,495,280	2,796,224	2,097,168	1,398,112	699,056
MO	15,100,304	12,080,243	9,060,182	6,040,121	3,020,061
MS	20,963,077	16,770,462	12,577,846	8,385,231	4,192,615
MT	5,850,211	4,680,169	3,510,127	2,340,084	1,170,042
NC	3,277,455	2,621,964	1,966,473	1,310,982	655,491
ND	1,301,696	1,041,357	781,017	520,678	260,339
NE	9,563,011	7,650,409	5,737,806	3,825,204	1,912,602
NH	797,075	637,660	478,245	318,830	159,415
NJ	-	-	-	-	-
NM	2,434,405	1,947,524	1,460,643	973,762	486,881
NV	6,168,957	4,935,166	3,701,374	2,467,583	1,233,791
NY	6,873,425	5,498,740	4,124,055	2,749,370	1,374,685
OH	10,496,923	8,397,538	6,298,154	4,198,769	2,099,385
OK	7,643,149	6,114,519	4,585,889	3,057,259	1,528,630
OR	4,847,665	3,878,132	2,908,599	1,939,066	969,533
PA	3,839,360	3,071,488	2,303,616	1,535,744	767,872
PR	195,471	156,377	117,283	78,189	39,094
RI	-	-	-	-	-
SC	2,344,486	1,875,589	1,406,691	937,794	468,897
SD	2,574,503	2,059,603	1,544,702	1,029,801	514,901
TN	5,956,883	4,765,506	3,574,130	2,382,753	1,191,377
TX	23,970,826	19,176,660	14,382,495	9,588,330	4,794,165
UT	826,729	661,383	496,038	330,692	165,346
VA	8,099,831	6,479,865	4,859,898	3,239,932	1,619,966
VT	2,408,155	1,926,524	1,444,893	963,262	481,631
WA	6,204,584	4,963,668	3,722,751	2,481,834	1,240,917
WI	3,559,407	2,847,526	2,135,644	1,423,763	711,881
WV	7,017,028	5,613,623	4,210,217	2,806,811	1,403,406
WY	2,731,463	2,185,170	1,638,878	1,092,585	546,293
Total	290,302,932	232,242,346	174,181,759	116,121,173	58,060,586

* This table shows the amount of additional targeted federal support that each state would receive at a given percentage of wire center costs exceeding a threshold of 2 standard deviations above the national average cost. See *supra* paras. 123-26, 132-33. These numbers are calculated by summing the individual wire center costs that exceed the average plus 2 standard deviations in each state, and multiplying by the given percentage. The District of Columbia, New Jersey and Rhode Island had no wire centers with costs that exceeded the average plus 2 standard deviations

APPENDIX H

Parties Filing Comments and Reply Comments

CC Docket No. 96-45

Comments:

<u>Commenter</u>	<u>Abbreviation</u>
AT&T Corp.	AT&T
California Public Utilities Commission and of the People of the State of California	California
Competitive Universal Service Coalition	CUSC
Maine Public Utilities Commission	Maine
Missouri Office of the Public Counsel	Missouri
Montana Public Service Commission, Montana Consumer Counsel, Vermont Public Service Board, Vermont Department of Public Service	Montana and Vermont
National Association of State Utility Consumer Advocates	NASUCA
National Rural Telecom Association	NRTA
New York State Department of Public Service	New York
Qwest Communications International Inc.	Qwest
Rural Independent Competitive Alliance	RICA
SBC Communications	SBC
Sprint Corporation	Sprint
SureWest Communications	SureWest
Texas Public Utility Commission	Texas
United States Telecom Association	USTA
Verizon Telephone Companies	Verizon
Public Service Commission of Wisconsin	Wisconsin
Wyoming Public Service Commission	Wyoming

Reply Comments:

<u>Commenter</u>	<u>Abbreviation</u>
AT&T Corporation	AT&T
GVNW Consulting, Inc.	GVNW
Maine Public Utilities Commission	Maine
National Association of State Utility Consumer Advocates	NASUCA
Qwest Communications International Inc.	Qwest
SBC Communications Inc.	SBC
Sprint Corporation	Sprint

Surewest Communications
Verizon
WorldCom, Inc.

Surewest
Verizon
WorldCom

**SEPARATE STATEMENT OF
CHAIRMAN MICHAEL K. POWELL**

In many ways, our action today is the ultimate truth-in-billing measure. In 1996, Congress recognized that the amalgam of implicit support mechanisms that had creaked along in a monopoly environment would no longer function in a competitive market for the simple reason that companies would abandon the artificially unprofitable markets and swarm the artificially profitable ones. In adopting the 1996 Act, Congress directed the Commission and the states to stop doing what they had done for sixty years. Rather than require companies to artificially lower prices on high-cost residential lines, Congress directed this Commission to meet the goals of affordability and ubiquity by providing consumers with explicit discounts for supported telecommunications services. And rather than permitting companies to recoup costs for unprofitable lines through higher prices for business services Congress directed us to take steps in furtherance of a regulatory regime where retail rate structures reflect the cost of providing service.

In the face of years of hidden costs, uneconomic pricing and cross-subsidies, Congress gave the Commission the difficult task of determining the "real" cost of service in all parts of the country, maintaining a fund sufficient to provide reasonably comparable rates and distributing money in an equitable manner. Today's *Order and Further Notice* moves the nation one step closer to dismantling the system of false pricing information that regulators have imposed on the public. Admittedly, our action today does not eliminate all implicit support in local rate structures. However, I remain convinced that in a competitive market, we can only achieve Congress' universal service goals by creating an explicit support fund to benefit consumers who need it and by eliminating the vestiges of implicit support that misallocate resources and distort competition.

Over the last seven years, the Commission has adopted several measures to establish explicit universal support mechanisms that remain resilient to intense competition, including a federal high-cost universal service support mechanism for non-rural carriers based on forward-looking economic cost. Consistent with the Act, the Commission's 1999 *Ninth Report and Order* chose to determine the amount of federal support given to non-rural carriers in each state by comparing the statewide average cost per line, as estimated by the Commission's forward-looking cost model, to a nationwide cost benchmark of the national average cost. Non-rural carriers whose costs exceed the benchmark would receive universal-service support.

I voted in favor of the *Ninth Report and Order*, because I believed it is "imperative that we introduce some notion of economic cost into universal service support."¹ While I questioned the adequacy of the Commission's rationale, I said then that, without some type of a forward-

¹ Separate Statement of Commissioner Michael K. Powell, Concurring in Part, *Federal-State Joint Board on Universal Service*, Ninth Report and Order and Eighteenth Order on Reconsideration, CC Docket No. 99-45, 14 FCC Rcd. 20432 (1999)

looking economic cost model, states and carriers would have had no objective way of knowing how much money they needed, much less where they should spend the money they got.²

In the appellate litigation that followed the *Ninth Report and Order*, the Tenth Circuit largely agreed with the Commission's ruling. It upheld the Commission's cost model, though it remanded the methodology for determining the precise level of non-rural support for further analysis. Specifically, the Tenth Circuit directed us to define the statutory terms "reasonably comparable" and "sufficient" more precisely and then to assess whether and how the non-rural mechanism we choose would prove sufficient to achieve the statutory principle of making rural and urban rates reasonable comparable. The Tenth Circuit also told us to do more to induce states to ensure local rate comparability and to create positive incentives for them to abandon their long-standing practice of permitting implicit cost subsidies based on little more than back-of-the-envelope perceptions of need.

Today's order fulfills the Tenth Circuit's directives. We have taken this opportunity to define our goals more precisely and we have done a better job in determining that support which is "sufficient" to achieve "reasonably comparable" rates. We have also adopted a rational threshold to determine when non-rural, high-cost support should become available by balancing legitimate state need against the risk of excessive support. And we have reviewed our comprehensive plan for supporting universal service in high cost areas and sought comment on how to adapt the overall plan to meet changing conditions. I support fine-tuning our forward-looking cost model by comparing statewide average costs to a nationwide cost benchmark closely tied to relevant market data. I also support measures such as the expanded rate-review and certification processes that should induce states to achieve reasonably comparable rates in response to the court's remand. I look forward to working with my colleagues in the states to achieve the long-term goal of dismantling the system of cross-subsidies that persists in many of the nation's telephone rates.

The creation of a rational, economically sound support mechanism, of course, is only one half of the solution to the problem of cross subsidies in the telecommunications market. The other half of the solution lies in the *Triennial Review Order*. No matter how rational and well reasoned, an economic support mechanism will prove meaningless if states remain able to avoid its strictures simply by offering suppliers the option of buying essential telecommunications inputs at super-efficient prices – untethered from the realities of providing that wholesale service. While I therefore support today's decision, true reform will prove elusive as long as the other half of the problem – the pricing of wholesale inputs – goes unaddressed. For this reason, we should redouble our efforts along a number of different regulatory vectors. We should seek out new ways for federal and state regulators to work together and rationalize state support mechanism to achieve Congress' twin goals of universal service and sustainable local competition. At the same time, the Commission's universal service focus will turn to the Joint Board's recommendation in the *Portability* proceeding and the Commission's efforts to ensure that wholesale rate structures more accurately reflect the forward-looking economic costs of providing service to competitors.

² *Id*

**SEPARATE STATEMENT OF
COMMISSIONER KATHLEEN Q. ABERNATHY**

Today we bring closure to the complex set of rules that allocate universal service funds to non-rural carriers. These companies are the largest carriers providing telecommunications service across the United States. Although most of the high cost loop support is directed to smaller rural carriers (well-over 90%), the non-rural carriers are also a critical component of the success of USF in America. In some states, for example, the non-rural carrier may be the primary provider of communications service for rural Americans. Given this critical position, the USF Joint Board and the FCC were dedicated to crafting high-cost support rules that would ensure comparable rural and urban rates for areas served by the non-rural carriers.

Today's order reflects that effort. First, we adopt a more precise definition of the statutory terms "sufficient" and "reasonably comparable" for purposes of the non-rural support mechanism. Second, we adopt a methodology for setting a national average cost per line benchmark. Third, we have created an expanded annual certification process, which provides an inducement to states to achieve reasonably comparable rates. This mandatory review process encourages each state to examine whether its policies are achieving rate comparability and if not, to take such action as necessary to do so. It also enables the Commission to evaluate whether the non-rural mechanism is achieving the goal of reasonable comparability among states, while placing primary responsibility on the states and giving each state the flexibility to regulate basic rates and services.

I believe the modifications we are making to our Universal Service requirements address the concerns outlined by the Tenth Circuit. The order also furthers the goals of the Communications Act by ensuring that there are reasonably comparable urban and rural rates for all customers served by non-rural carriers.

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**SEPARATE STATEMENT OF
COMMISSIONER MICHAEL J. COPPS**

Universal service policy is built on the principle that all of us benefit when more of us are connected. This principle resides at the core of the Telecommunications Act. And Congress made clear that the Commission must be working to ensure that all Americans—rural, urban and everything in between—have access to reasonably comparable services at reasonably comparable rates.

Today, we bring needed clarity to this concept by retooling our mechanism for non-rural carrier high-cost support. I am pleased that in this item we define key statutory terms and adopt further measures to induce States to ensure reasonable comparability of rural and urban rates. At last, we can remove the non-rural high-cost mechanism out from under the cloud of judicial remand that has hovered over it for more than two years. Our action today represents a measured step in the right direction and I support it.

I still have, however, a reservation or two with respect to where we are headed. Today's decision adopts the use of statewide average costs as part of the mechanism to direct support to non-rural carriers serving high-cost States. I support this approach, but recognize that some have argued that the selection of statewide average costs disadvantages non-rural carriers providing service in States with significant rural and urban areas. I think the best course going forward is to monitor carefully the methodology we have chosen here. If the statewide average approach provides insufficient support, resulting in rates that are not reasonably comparable, we will have no choice under the statute but to reconsider.

I also am concerned that rates for basic service that are two standard deviations higher than the average urban rate may not always be the right metric for determining reasonably comparable rates. However, I believe we provide States with ample opportunity through the rate review and certification process to demonstrate that factors other than basic service rates affect the comparability of their rates.

Finally, I wish to note that today's item applies only to non-rural carriers. The assumptions that buttress our analysis here—like using statewide average costs—may not prove appropriate when we consider sufficient support for rural carriers.

As technical as this decision is, the goal that undergirds it is simple. Congress charged us to ensure that comparable technologies are available all across the country at affordable and roughly equivalent rates. Our actions here endeavor to advance that goal. This is what the statute mandates, what the public interest requires and what this item sets us on the road to accomplish.

STATEMENT OF COMMISSIONER KEVIN J. MARTIN
Approving in Part, Dissenting in Part

I appreciate the efforts of my colleagues to address some of the concerns I raised with the Joint Board recommendation. For the reasons set forth in my attached statement¹, I believe that today's decision continues to fall short in its response to the court mandate and our obligation to ensure that consumers living in rural and high cost areas have access to similar telecommunications services at rates that are reasonably comparable to rates paid by urban consumers.

¹ Statement of Commissioner Kevin J. Martin, Approving in Part, Dissenting in Part, *Federal-State Joint Board on Universal Service, Joint Board Recommended Decision* (Oct. 16, 2002)

**STATEMENT OF
COMMISSIONER KEVIN J. MARTIN
Approving in Part, Dissenting in Part**

Joint Board Recommended Decision

I wish to thank all my colleagues on the Federal-State Joint Board for their hard work and contributions in the effort to reach consensus on the important issue of establishing a universal service support system for non-rural carriers. I believe that today's effort, however, falls short in meeting our obligation to ensure that consumers living in rural and high cost areas have access to similar telecommunications services at rates that are reasonably comparable to rates paid by urban consumers.

Congress gave the Commission a clear mandate: to ensure that consumers in all regions of the nation have access to services that "...are reasonably comparable to those services provided in urban areas and that are available *at rates that are reasonably comparable to rates charged for similar services in urban areas* (emphasis added)."¹ Congress' direction is also clear regarding the obligation to establish mechanisms that are "...specific, predictable and sufficient...to preserve and advance universal service."² In remanding the Commission's previous attempt to establish a federal-high cost universal service support mechanism for non-rural carriers, the United States Court of Appeals for the Tenth Circuit agreed that these fundamental guiding principles govern Commission action on any policies regarding universal service support mechanisms.³

Despite this remand, the majority's recommendation essentially reaffirms the Commission's existing universal service support mechanism for non-rural carriers. The decision continues to base support on forward looking costs and creates a sparsely defined second supplemental support system based on rate comparisons. Today's recommendation falls short in its response to the court mandate that we define the statutory term "reasonably comparable" for purposes of the cost-based support mechanism and fails to demonstrate, with any degree of specificity, how the proposed secondary mechanism will satisfy the statutory requirement that universal service support be "specific, predictable and sufficient."

¹ See 47 U.S.C. 254(b)(3).

² See 47 U.S.C. 254(b)(5).

³ *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Ninth Report and Order and Eighteenth Order on Reconsideration, 14 FCC Rcd 20432(1999)(*Ninth Report and Order*) remanded, *Qwest Corp v FCC*, 258 F.3d 1191, 1199 (10th Cir 2001).

For these and the reasons explained below, I respectfully dissent from portions of the majority opinion today.⁴

Use of Costs as a Surrogate for Rates to Determine Non-Rural High Cost Support

Section 254(b)(3) of the Communications Act requires that universal service support mechanism ensure that telecommunications services in all regions of the nation be provided at reasonably comparable "rates." The majority, however, recommends continuing the practice of using costs rather than rates to determine federal support. I am not convinced that a mechanism based solely on costs would meet the statutory mandate requiring a comparison of rates.

Moreover, I fear that the recommended decision may be either arbitrary or not fully thought through. If the Joint Board is confident that a cost-based support system satisfies our statutory obligation to produce reasonably comparable rates, then why does it propose establishing an entirely new support mechanism based on rate comparisons? Similarly, if the Commission were to adopt the Joint Board's recommended "supplemental rate comparability review," why should it not abandon the cost-based support mechanism and instead rely solely on the rate-based support mechanism? If we need the supplemental rate comparison to meet our statutory obligation, would it not be simpler to have only one mechanism rather than two? These questions seem to remain unanswered by the majority.

The majority's rejection of rate-based distribution and support for a cost-based mechanism is based on two arguments: (i) an analysis of disparate local rate design practices throughout the nation remains too difficult a task; and (ii) the use of costs reflects the federal government's primary obligation to support only those states that "do not have the resources within their borders to support all of their high cost lines."⁵ In my view, both of these arguments fail to support the Joint Board's position.

First, in response to the argument that such an analysis is too difficult, the majority appears to create just such an analysis in its "supplemental rate comparability review." The majority also fails to note or even address the fact that many of the issues and data necessary to perform a rate-based comparison will be needed in the context of initiating the proposed catch all "supplemental rate comparability review." On its face, one well-defined support mechanism based on rate comparisons would appear to present an equal or lesser administrative burden for the Commission, the states and carriers compared to the dual cost-based and rate-based mechanisms recommended by the majority today.

The majority's recommendation also contains an inherent presumption that the federal government's role in establishing a support mechanism is apparently limited to equalizing cost discrepancies between states but not equalizing rate discrepancies between rural and urban

⁴ In addition to the reasons discussed below, I also agree with and join in many of the concerns raised in Commissioner Bob Rowe's thorough and thoughtful analysis in his dissent.

⁵ Recommended Decision at paras. 19-21, 24.

areas.⁶ I disagree. The statute is clear. Our job is to ensure that services in rural and high cost areas are “available at rates that are reasonably comparable to rates charged for similar services in urban areas.”⁷ The 10th Circuit explicitly rejected the FCC’s contention that it had no duty to ensure the reasonable comparability of rural and urban rates and stated that we are “obligated to formulate policies so as to achieve the goal of reasonable comparability...”⁸

In my view, if the Commission is only going to address discrepancies between and among states, then there must be a requirement that states address such discrepancies within their borders. Whether such a requirement compels rate averaging within states or requires that a state universal service mechanism be in place, such action must address differences in cost between rural and urban areas. Yet this decision fails to require that such inequities between urban and rural rates be addressed.⁹

The proposed expanded rate certification mechanism is insufficient. Under the proposed certification process, states would be permitted to report rates that are not “reasonably comparable” according to the benchmark. Such rates could eventually be allowed to meet the “reasonably comparable” standard if a state demonstrates “additional services included in the basic service rate” or by outlining “the method in which the state has targeted existing universal service support.”¹⁰ In my view, such a certification process is insufficient without a standard enunciating the allowable discrepancy for intrastate rates.

Sufficiency of High-Cost Support under the National Average Cost Benchmark

Even if costs can be used as a surrogate, I question the majority’s recommendation to use the 135% benchmark to ensure that rural rates are “reasonably comparable.”

⁶ Recommended Decision at paras. 25-26 “The Commission’s primary role is to identify those states that do not have the resources within their borders to support all of their high-cost lines.... The Commission explained in the *Ninth Report and Order* that the non-rural high cost support mechanism “has the effect of shifting money from relatively low-cost states to relatively high-cost states. The Commission believed that its non-rural support mechanism ensured that no state with costs greater than the national benchmark would be forced to keep rates reasonably comparable without the benefit of federal support.... We continue to support these policies.” —

⁷ 47 U.S.C. 254(3).

⁸ 258 F.3d at 1200.

⁹ See *Ninth Report and Order* at 20482-3, para. 95 (The Commission found it most appropriate to allow states to determine how non-rural cost support is used, “[b]ecause the support ..is intended to enable the reasonable comparability of intrastate rates, and states have primary jurisdiction over intrastate rates.”; see id. At 20483, para. 96 (“As long as the uses prescribed by the state are consistent with 254(e), we believe that states should have the flexibility to decide how carriers use support provided by the federal mechanism.”). See Recommended Decision at paras 43-56 Even in light of the 10th Circuit remand requiring the Commission to consider appropriate state inducements to address reasonably comparable rates, the Joint Board fails to consider recommending either a state averaging mandate or mandatory state universal service mechanism requirement to address discrepancies between costs in rural and urban areas

¹⁰ Recommended Decision at para 55

In deciding to proceed with a cost-based methodology to ensure reasonably comparable "rural" and "urban" rates, we should compare "rural" costs to average "urban" costs. The Commission certainly has data readily available to perform this comparison. Under the Synthesis Cost model, cost data can be produced by density zone or at the wire center level. Yet, the majority summarily rejects the concept of an "urban benchmark," setting a benchmark at 135 percent of national average cost. In the process, the decision sidesteps the question of whether the benchmark produces sufficient support in light of the existing disparity between national average cost and the lower average urban cost.

As Commissioner Rowe notes, the majority's rejection of the urban benchmark is "confusing and unpersuasive."¹¹ The majority never tackles the uncomfortable fact that the 135 percent benchmark is too high because national average costs are already higher than urban costs because they include in the national average the very rural areas at issue. In other words, the high costs associated with serving rural areas are used twice: once to raise the national average and again in comparison.

Let me illustrate my concern with a simple example. If half of the country lived in an urban area with costs of \$10 and the other half of the country lived in a rural area with costs of \$30, the difference between the costs of the average urban area and average rural area would be \$20. But if a national average were taken, including the costs of the rural areas, the national average cost would be \$20. If support were then based on the difference between the rural cost (\$30) and 135% of the national average ($1.35 \times \$20 = \27), each rural resident would have costs of \$27 (\$30-\$3 of support) and each urban resident would have costs of \$13 (\$10 + \$3 of support). I do not believe that such a methodology sufficiently addresses the reasonable comparability of rural and urban costs. The inclusion of rural costs in the average along with the adoption of a 135% benchmark systematically underestimates the costs of rural areas.¹²

Instead, the majority finds fault with the use of an urban benchmark based on the fact that it "substitutes costs for rates" and "compares statewide average costs to nationwide urban costs."¹³ The majority's criticism appears strangely out of place given that its own recommendation is also based on a cost-based support system. I find it ironic that the majority can justify its "existing system on the ground that costs equal rates, and at the same time rejects all changes on the ground that costs do not equal rates."¹⁴

¹¹ See Commissioner Bob Rowe's Separate Statement at 8.

¹² National averages could be used without a benchmark or urban averages could be used with a benchmark but the combination of the two mechanisms is arbitrary.

¹³ Recommended Decision at para. 39.

¹⁴ See Commissioner Bob Rowe's Separate Statement at 8.

It also rejects the urban benchmark because it would “require more funding or a higher benchmark level because urban average costs are lower than national average costs.”¹⁵ I fail to see how the potential for greater funding levels should prevent us from adopting a support system that meets our statutory obligation.¹⁶ Indeed, I fear that this reasoning reflects an analysis that concluded first that there would be no additional funding for rural areas and second adopted a mechanism to assess “reasonable comparability” that achieved that result. I believe our statutory obligation was to achieve reasonably comparable urban and rural rates even if that “requires more funding” than the current system provides.

Nor do I understand how the majority reaches the conclusion that the urban cost benchmark fails to “better satisfy the statutory comparison of urban and rural rates.”¹⁷ I join Commissioner Rowe in questioning how the majority finds that additional “incremental support would be ineffective at producing comparable rates, but existing support passes the test.”

In addition, I question the use of forward-looking costs as the basis for distributing universal service support. Today, rates are set in most states through the use of actual costs not hypothetical replacement costs. Forward-looking costs have little, if any, nexus to the establishment of end user retail rates. Use of these costs for calculating universal service support results in support being provided to some areas with low end user rates while certain areas that have high rates receive insufficient support. In my view, we could better achieve comparability of rates if we based our universal service support system on actual rather than forward looking costs.

Finally, the majority cites three studies/analyses in support of its decision to continue using the 135 percent benchmark. I disagree with the majority’s conclusion that these studies support its decision to retain the benchmark. First, the majority points to the General Accounting Office (GAO) study to show that national averages of rural, suburban and urban rates are affordable and reasonably comparable. The majority, however, fails to acknowledge serious deficiencies in the GAO study that fail to support the use of the benchmark for non-rural carriers.¹⁸ For example, the GAO study includes data from areas served by rural carriers, areas that are not relevant to the establishment of non-rural carrier support system. In addition, GAO’s rate comparison ignores whether rates in different service areas apply to comparable services. Moreover, national averages cited by GAO do not assist the Commission in addressing our core responsibility of whether rates in certain rural or high cost areas are comparable to rates in urban areas, or even whether rates vary significantly from state-to-state. To the contrary, as Commissioner Rowe

¹⁵ Id at 40.

¹⁶ The United States Department of Agriculture’s Rural Utilities Service (RUS) recommended adoption of a benchmark tied to the national average urban loop cost or another statistical indicator more representative of urban costs, not the national average costs. RUS notes that 135% of the national average (urban and rural) “loop cost” exceed its estimate of urban “loop costs” by 233%.

¹⁷ Recommended Decision at 39. (emphasis in original).

¹⁸ See also Commissioner Rowe’s Separate Statement at 2-3.

points out, GAO's data demonstrates a vast disparity on state rates (e.g., residential rates at two Wyoming locations exceeding \$40 versus residential rates in Roaring Springs, Texas of \$7.10).¹⁹

I also join Commissioner Rowe's dissent asserting that a standard deviation analysis fails to justify the current benchmark.²⁰ I find it particularly troubling that the majority arbitrarily raises the benchmark to 135 percent even in light of its own analysis demonstrating that 2.0 standard deviation above the national mean results in a 132 percent benchmark. The majority offers no reasoned basis why states should be denied the additional \$.50 per customer per month of support that would result by applying the results of the majority's own standard deviation analysis.

Supplementary Rate Review

The majority, in today's recommendation, sets forth an additional supplemental process for rate comparison. It recommends adopting a new and vaguely defined supplemental mechanism. Rather than provide a clearly defined mechanism the majority instead offers an ad hoc process where the specific mechanisms will apparently develop on a case-by-case basis.²¹ The majority envisions a process where States seeking additional federal support will be required to provide a "rate analysis," and will have "great flexibility" in demonstrating that rates are not reasonably comparable.²²

In my view, the majority's "supplementary rate review" is striking similar to the state-by-state cost study approach the Commission had originally rejected in order to pursue its flawed nationwide universal service cost model approach. Under the recommended state-by-state approach, each state would have significant latitude to suggest its own procedures for adjusting rates. Without specific guidelines or a clearly defined standard, this approach appears to invite the potential for uneven and potentially discriminatory results.

I am troubled that majority fails to offer any specific guidance on critical areas of its newly proposed process. The item is silent, for example, on whether states should alter rates to take into account the scope of certain local calling areas or differing calling plans. In my view, without an established standard or guidance for states in this area, the poorly defined "supplementary rate review" will most likely provide results, if any, that are highly susceptible to legal challenge.

Finally, Commissioner Rowe is correct in questioning whether the proposed "supplementary rate review" would "create perverse incentives for carriers."²³ One of the reasons the Commission

¹⁹ *Id.* at 3

²⁰ *Id.* at 5-7.

²¹ *Id.* at 16.

²² Recommended Decision at para. 56.

²³ See Commissioner Bob Rowe's Separate Statement at 18.

adopted the forward-looking cost model was because it believed that an embedded-cost support system promotes inefficient investment that would inhibit competitive entry. I find it ironic that the majority now seeks to adopt a rate-based mechanism that inherently relies on local rates which are typically based on embedded costs.

**SEPARATE STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN**

With the passage of the Telecommunications Act, Congress affirmed the broad principle that “consumers in all regions of the nation ... should have access to telecommunications and information services that are reasonably comparable to those available in urban areas and at rates that are reasonably comparable to rates charged for similar services in urban areas.” This simple, elegantly-stated principle is at the heart of our universal service policy and is the focus of our attention today

Through this Order, we modify our universal service funding mechanisms for non-rural telephone companies. By “non-rural telephone companies,” we refer to some of the largest local exchange carriers in the nation. These companies serve rural areas in numerous states, but also serve non-rural areas including most of the urban, low-cost areas in any given state. I emphasize that this order applies only to the non-rural universal service funding mechanisms and I am pleased that this Order continues to recognize the fundamental geographic, economic, and demographic differences between rural and non-rural carriers.¹

This Order responds to a decision of the United States Court of Appeals for the Tenth Circuit, which had remanded our prior rules to us for further consideration and explanation. I believe that this Order speaks to the concerns raised by the Tenth Circuit Court of Appeals by providing meaningful definitions for key terms in the Act and by adopting a two part mechanism for federal universal service funding to non-rural carriers. The Order is based largely on the helpful recommendations of the Federal-State Board for Universal Service. When this Recommended Decision was adopted, I had not yet had the pleasure of joining this Commission or the Joint Board, so I would like to take this opportunity to thank my colleagues on the Joint Board, both present and past, for their hard work on this proceeding.

The Order affirms our practice of comparing statewide average costs to a nationwide cost benchmark to determine federal non-rural high cost support. In addition, we take an important step toward ensuring the reasonable comparability of rates by adopting a supplementary rate review that can form the basis for additional federal support. Some have found fault with our reliance on cost as the primary basis for non-rural support, while others have criticized our two part approach – looking both at cost and at rates. In the end, I believe that ensuring that

¹ Rural carriers continue to be governed by the Rural Task Force Order, which runs through 2006. See *Federal-State Joint Board on Universal Service, Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers*, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, Report and Order in CC Docket No. 00-256, 16 FCC Rcd 11244, 11249, para. 11 (2001) (Rural Task Force Order).

consumers in rural areas have access to comparable service at comparable rates is one of our top priorities and I believe that we take a reasonable approach in this item.

We leave for tomorrow several key details of the supplemental rate review, including judgments about what specific showings will be required for additional federal support. I am pleased the item permits states to consider the calling scopes available in rural areas served by non-rural carriers when reviewing whether rates in those areas are comparable to urban rates nationwide and that the item seeks comment on whether and how consideration of calling scopes might be incorporated into the basic template. I look forward to working on these issues with my colleagues and hope that we can provide necessary clarification as soon as possible.

Finally, I note that this Order relies on recent data from the General Accounting Office showing that most rural and urban rates are currently reasonably comparable; this finding supports our conclusion that federal universal service support is set at a reasonable level. That said, it is important that we continue to monitor the effectiveness of the actions we take here. I believe that the new rate data that we will obtain through the expanded certification process will be essential for that purpose and can only help us in our efforts to "preserve and advance" universal service. We can all take pride in the success of our universal service programs and I am pleased to support this item.